

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Astou Diagne

Write the full name of each plaintiff.

CV  
(Include case number if one has been assigned)

-against-

Do you want a jury trial?

☒ Yes ☐ No

Le Pain Quotidien USA LLC

christophe MARS

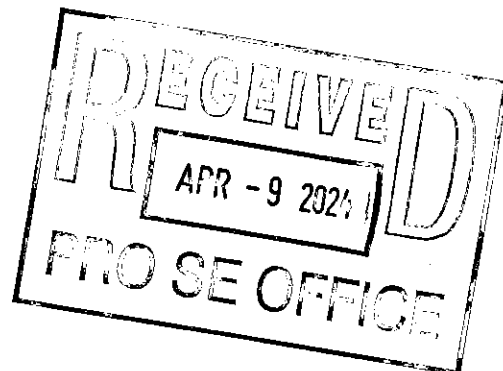
khady TALL

Write the full name of each defendant. The names listed above must be identical to those contained in Section I.

EMPLOYMENT DISCRIMINATION COMPLAINT

NOTICE

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.



**I. PARTIES****A. Plaintiff Information**

Provide the following information for each plaintiff named in the complaint. Attach additional pages if needed.

ASTOU DIAGNE  
 First Name Middle Initial Last Name  
152 West 118th Street #2D  
 Street Address  
NEW YORK NY 10026  
 County, City State Zip Code  
631 683 9040 Astoudiagne1347@gmail.com  
 Telephone Number Email Address (if available)

**B. Defendant Information**

To the best of your ability, provide addresses where each defendant may be served. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are the same as those listed in the caption. (Proper defendants under employment discrimination statutes are usually employers, labor organizations, or employment agencies.) Attach additional pages if needed.

Defendant 1: Le Pain Quotidien USA LLC  
 Name  
50 West 23rd Street, suite 700  
 Address where defendant may be served  
NEW YORK NY 10010  
 County, City State Zip Code

Defendant 2: CHRISTOPHE MARS  
 Name  
50 West 23rd Street, suite 700  
 Address where defendant may be served  
NEW YORK NY 10010  
 County, City State Zip Code

Defendant 3:

Khady TALL

Name

50 West 23rd street, suite 700

Address where defendant may be served

New YORK

County, City

NY

State

10010

Zip Code

**II. PLACE OF EMPLOYMENT**

The address at which I was employed or sought employment by the defendant(s) is:

Le Pain Quotidien

Name

70 West 40th street

Address

New YORK

County, City

NY

State

10018

Zip Code

**III. CAUSE OF ACTION****A. Federal Claims**

This employment discrimination lawsuit is brought under (check only the options below that apply in your case):

- ☐ **Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e to 2000e-17, for employment discrimination on the basis of race, color, religion, sex, or national origin**

The defendant discriminated against me because of my (check only those that apply and explain):

- ☐ race: \_\_\_\_\_
- ☐ color: \_\_\_\_\_
- ☐ religion: \_\_\_\_\_
- ☐ sex: \_\_\_\_\_
- ☐ national origin: \_\_\_\_\_

#### IV. STATEMENT OF CLAIM

##### A. Adverse Employment Action

The defendant or defendants in this case took the following adverse employment actions against me (check only those that apply):

- ☐ did not hire me
- ☒ terminated my employment
- ☐ did not promote me
- ☐ did not accommodate my disability
- ☐ provided me with terms and conditions of employment different from those of similar employees
- ☒ retaliated against me
- ☒ harassed me or created a hostile work environment
- ☐ other (specify): \_\_\_\_\_

##### B. Facts

State here the facts that support your claim. Attach additional pages if needed. You should explain what actions defendants took (or failed to take) *because of* your protected characteristic, such as your race, disability, age, or religion. Include times and locations, if possible. State whether defendants are continuing to commit these acts against you.

On 11-03-23 Khady Tall told me to leave because I was wearing a coat due to cold weather which defendants terminated my employment. Defendants tall had a discriminatory remarks directly referred to me. Defendants had no evidence of their accusation or reason to terminated me. As a Plaintiff I claimed for parental statue, unpaid back wages, hostile work environments disability. they decided to wrongful terminated me on november 3rd 2023.

As additional support for your claim, you may attach any charge of discrimination that you filed with the U.S. Equal Employment Opportunity Commission, the New York State Division of Human Rights, the New York City Commission on Human Rights, or any other government agency.

- ☐ **42 U.S.C. § 1981**, for intentional employment discrimination on the basis of race

My race is: \_\_\_\_\_

- ☐ **Age Discrimination in Employment Act of 1967**, 29 U.S.C. §§ 621 to 634, for employment discrimination on the basis of age (40 or older)

I was born in the year: \_\_\_\_\_

- ☐ **Rehabilitation Act of 1973**, 29 U.S.C. §§ 701 to 796, for employment discrimination on the basis of a disability by an employer that constitutes a program or activity receiving federal financial assistance

My disability or perceived disability is: \_\_\_\_\_

- ☐ **Americans with Disabilities Act of 1990**, 42 U.S.C. §§ 12101 to 12213, for employment discrimination on the basis of a disability

My disability or perceived disability is: \_\_\_\_\_

- ☐ **Family and Medical Leave Act of 1993**, 29 U.S.C. §§ 2601 to 2654, for employment discrimination on the basis of leave for qualified medical or family reasons

## **B. Other Claims**

In addition to my federal claims listed above, I assert claims under:

- ☐ **New York State Human Rights Law**, N.Y. Exec. Law §§ 290 to 297, for employment discrimination on the basis of age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status
- ☐ **New York City Human Rights Law**, N.Y. City Admin. Code §§ 8-101 to 131, for employment discrimination on the basis of actual or perceived age, race, creed, color, national origin, gender, disability, marital status, partnership status, sexual orientation, alienage, citizenship status
- ☐ Other (may include other relevant federal, state, city, or county law):

\_\_\_\_\_

**V. ADMINISTRATIVE PROCEDURES**

For most claims under the federal employment discrimination statutes, before filing a lawsuit, you must first file a charge with the U.S. Equal Employment Opportunity Commission (EEOC) and receive a Notice of Right to Sue.

Did you file a charge of discrimination against the defendant(s) with the EEOC or any other government agency?

☒ Yes (Please attach a copy of the charge to this complaint.)

When did you file your charge? 12-04-2023

☐ No

Have you received a Notice of Right to Sue from the EEOC?

☒ Yes (Please attach a copy of the Notice of Right to Sue.)

What is the date on the Notice? 01-08-2024

When did you receive the Notice? 02-07-2024

☐ No

**VI. RELIEF**

The relief I want the court to order is (check only those that apply):

- ☐ direct the defendant to hire me
- ☐ direct the defendant to re-employ me
- ☐ direct the defendant to promote me
- ☐ direct the defendant to reasonably accommodate my religion
- ☐ direct the defendant to reasonably accommodate my disability
- ☒ direct the defendant to (specify) (if you believe you are entitled to money damages, explain that here)

i had to face loss of income on my return from my vacation and this still affecting me. (unpaid back wages) it affected me mentally, emotionally and financially. im a mother of 2 kids and pregnant Right now. I applied for unemployment but still didn't get Any source of income. From unemployment.

**VII. PLAINTIFF'S CERTIFICATION**

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I agree to notify the Clerk's Office in writing of any changes to my mailing address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

04-03-2024  
 Dated  
 Astou  
 First Name  
 Middle Initial  
 Last Name  
 Plaintiff's Signature  
 Diagne  
 152 West 118th Street Apt 2D  
 Street Address  
 New York  
 County, City  
 NY  
 State  
 10026  
 Zip Code  
 631 683 9040  
 Telephone Number  
 Astoudiagne1347@gmail.com  
 Email Address (if available)

I have read the attached Pro Se (Nonprisoner) Consent to Receive Documents Electronically:

☒ Yes ☐ No

If you do consent to receive documents electronically, submit the completed form with your complaint. If you do not consent, please do not attach the form.

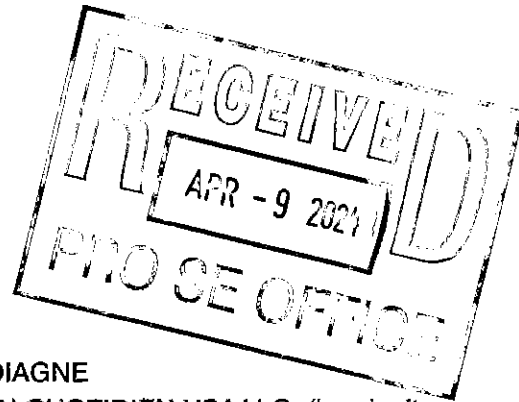
**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF NEW YORK**

RECEIVED  
SDNY PRO SE OFFICE  
2024 APR -9 AM 11:54

-----X  
**ASTOU DIAGNE,**  
**Plaintiff**

**-against – COMPLAINT**

LE PAIN QUOTIDIEN USA LLC,  
CHRISTOPHE MARS individually and  
KHADY TALL individually, Defendants.  
Plaintiff demands a trial by the jury.



Plaintiff, **ASTOU DIAGNE** (hereinafter referred to as Plaintiff or 'DIAGNE  
As for her complaint in this action against the defendants, LE PAIN QUOTIDIEN USA LLC. (hereinafter referred to as LPQ)  
CHRISTOPHE MARS individually (hereinafter referred to as MARS) and KHADY TALL individually (hereinafter referred to as TALL), individually (hereinafter collectively referred to as defendants), respectfully alleges as follows:

I have been working for LE PAIN QUOTIDIEN for 4 years before COVID (2019-2020) as a retailer. And I came back in 2021 I never had an issue with anybody at work. Everything started when my DISTRICT MANAGER (Christophe Mars) took over the store where I used to work (2 west 69<sup>th</sup> street, NY, NY 10023) back in July 2023. He has not stopped criticizing my work availability. The same availability I had with the company. On my return from my vacation on September 11<sup>th</sup>, 2023, my regular schedule was changed by Christophe Mars without further notice, and I had to face discrimination, retaliation and unpaid back wages from my District Manager Christophe Mars.

The discrimination is based on my parental status because as of a mother of two kids (8 years old and 5 years old) my district manager told me back in July 2023 that he will never promoted anyone that not fully available to a manager position and it's not because i have kids that i will have a fix schedule, He did mentioned to me in front of his General Manager Christopher Figueroa , and that kind of a wrong message coming from a District manager.

My vacation was approved by my prior General Manager (Phoebe Rigor) for 1 month couple months before she left for her maternity leave. My vacation was approved From August 1<sup>st</sup> to August 31<sup>st</sup>, 2023. Around July 2023 i did ask my General Manager Christopher Figueroa if I can work until the week of august 6<sup>th</sup> so instead of being back from vacation on August 31<sup>st</sup> I should be back on September 7<sup>th</sup> (1 month) he approved it verbally and he added me on the schedule. Everything was alright until I came back from my vacation on September 11<sup>th</sup>, 2023.

On August 22<sup>nd</sup>, 2023, I sent an email to my district manager Christophe Mars that i will be back to work on September 11<sup>th</sup>, 2023, because of my daughters starting school (2<sup>nd</sup> grade and kindergarten) on September 7<sup>th</sup>, 2023, he never answers my email.

I had to face retaliation after coming back from my vacation on September 11<sup>th</sup>, 2023. I was given 1 day shift to work while my hours were given to other employees. I suffered from a loss of income I did



complain to my workplace HR about the situation on September 20<sup>th</sup>, 2023, about the situation that happened to me and the loss of wages.

HR transferred me to another location at Bryant Park back in October 2023. I wasn't feeling safe at Bryant Park, I had to face a hostile work environment and harassment because I was still under the same District Manager (Christophe Mars). The General Manager at Bryant Park (Khady Tall) was harassing me about my work availability after HR, Christophe Mars and I agreed to go to Bryant Park for a transfer. I was working 5 days in the week (full time).

Khady Tall was always harassing me about my work availability, she was telling me that I have a limited availability and that her and I cannot have the same days off since she is the General manager (Friday and Saturday) i explained to her that Friday is the day I plan for doctor's appointment for my kids and I. And Saturday is the day to take my kids for their swimming classes. She did not want to hear that.

I thought all the issues were over after HR sent me to Bryant Park. Khady Tall and Christophe Mars did not want me at Bryant Park, and they did whatever it took to create a hostile environment for me. I could not talk to any employees there, I was feeling controlled and targeted, and I don't know the reason.

I have been wrongfully terminated because Khady Tall asked me to remove my coat on November 3<sup>rd</sup>, 2023, after I mentioned to her that I was cold, the same coat I always wear at LE PAIN QUOTIDIEN. I mentioned to her that I was cold; she didn't want to hear that it either I removed the coat, or I go home in front of customers and employees. I was extremely humiliated, degraded, victimized, embarrassed and emotionally distressed.

I could not take it anymore. They pushed me to the limit I used an inappropriate word because at a certain time you must stand and protect yourself. Thats what I did, and Christophe Mars and HR ended up terminated me.

That was a whole set up against me.

Defendants had no evidence of their action to terminate me other than plaintiff claims for parental status, unpaid back wages, hostile work environments disability, and in retaliation for plaintiff numerous complaints of discrimination and harassment.

As a result of defendants unlawful and discriminatory actions I became so physically and emotionally distressed that I'm having difficulty eating and sleeping.

Defendants hurt me financially, emotionally I had difficulty concentrating on my own kids since I was terminated. I had to see a therapist to talk too. I endured unwarranted financial hardships and irreparable damage to my professional reputation. I suffer the loss of income, benefits and other compensation, which such employment entails. I also suffered pecuniary losses, emotional pain, suffering, inconvenience, loss of enjoyment of life, and other non-pecuniary losses.

As defendants' actions were malicious, willful, outrageous and conducted with full knowledge of the law, plaintiff Diagne demands punitive damages against defendants.

Defendants violated my rights. They used their position against me.

I was a shift lead. My job duties were to manage the restaurant, take care pf dining guests, place store daily orders, reconcile invoices, labor management, inventory count and receive all daily orders in a timely manner.

**The staff attorney SDNY Pro Se Clinic thought i might have a claim for violation of my section 7 rights under the NLRA and for discriminating against me for my familial status under State and city law.**

WHEREFORE, plaintiff respectfully requests that this court enter judgment in an amount which exceeds the jurisdiction of all lower courts for all damages including but not limited to compensatory damages, punitive damages, statutory damages, lost wages, back pay, front pay.  
Plaintiff demands a trial by jury as to all issues so trial able.

Date: **NEW YORK, NEW YORK**  
**April 3<sup>rd</sup>, 2024**

**Sincerely,**  
**Astou Diagne**



## **U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**

New York District Office  
33 Whitehall St, 5th Floor  
New York, NY 10004  
(929) 506-5270  
Website: [www.eeoc.gov](http://www.eeoc.gov)

### **DISMISSAL AND NOTICE OF RIGHTS**

(This Notice replaces EEOC FORMS 161, 161-A & 161-B)

Issued On: 01/08/2024

To: Ms. Astou Diagne  
152 west 118th street apt 2D  
NEW YORK, NY 10026  
Charge No: 520-2024-01134

EEOC Representative and email: PETAGAYE FAGAN  
Contractor  
[petagaye.fagan@eeoc.gov](mailto:petagaye.fagan@eeoc.gov)

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### **DISMISSAL OF CHARGE**

The EEOC has granted your request that the agency issue a Notice of Right to Sue, where it is unlikely that EEOC will be able to complete its investigation within 180 days from the date the charge was filed.

The EEOC is terminating its processing of this charge.

### **NOTICE OF YOUR RIGHT TO SUE**

This is official notice from the EEOC of the dismissal of your charge and of your right to sue. If you choose to file a lawsuit against the respondent(s) on this charge under federal law in federal or state court, **your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice.** Receipt generally occurs on the date that you (or your representative) view this document. You should keep a record of the date you received this notice. Your right to sue based on this charge will be lost if you do not file a lawsuit in court within 90 days. (The time limit for filing a lawsuit based on a claim under state law may be different.)

If you file a lawsuit based on this charge, please sign in to the EEOC Public Portal and upload the court complaint to charge 520-2024-01134.

On behalf of the Commission,

Digitally Signed By: Timothy Riera  
01/08/2024

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Timothy Riera  
Acting District Director



## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## CHARGE OF DISCRIMINATION

For Official Use Only - Charge Number:

EEOC Form 5A (October 2017)

<b>Personal Information</b>	First Name: <u>Astou</u> MI: _____ Last Name: <u>DIAGNE</u> Address: <u>152 West 118th Street</u> Apt.: <u>2D</u> City: <u>New York</u> County: <u>Manhattan</u> State: <u>NY</u> Zip Code: <u>10026</u> Phone: <u>6316234040</u> Home <input type="checkbox"/> Work <input checked="" type="checkbox"/> Cell <input type="checkbox"/> Email: <u>Astoudiagne1349@gmail.com</u>
<b>Who do you think discriminated against you?</b>	Employer <input checked="" type="checkbox"/> Union <input type="checkbox"/> Employment Agency <input type="checkbox"/> Other Organization <input type="checkbox"/> Organization Name: <u>Le Pain Quotidien LLC</u> Address: <u>50 West 23rd Street</u> Suite: <u>750</u> City: <u>New York</u> State: <u>NY</u> Zip Code: <u>10010</u> Phone: <u>6463600032</u>
<b>Why you think you were discriminated against?</b>	Race <input type="checkbox"/> Color <input type="checkbox"/> Religion <input type="checkbox"/> Sex <input type="checkbox"/> National Origin <input type="checkbox"/> Age <input type="checkbox"/> Disability <input type="checkbox"/> Genetic Information <input type="checkbox"/> Retaliation <input checked="" type="checkbox"/> Other <input checked="" type="checkbox"/> <u>(Specify) Discrimination and loss of wages</u>
<b>What happened to you that you think was discriminatory?</b>	Date of most recent job action you think was discriminatory: _____ Also describe briefly each job action you think was discriminatory and when it happened (estimate). <u>My hours was reduced when I came back from my vacation around 09-18-23 and some of my days and hours were given to others without prior notice. I was discriminated because I'm a mom and they wasn't happy with my availability.</u> <u>Around 10-12-23 my General manager sent me home because I was talking to an employee. I was feeling targeted and controlled by my General manager and my district manager.</u> <u>On 11-02-23 my General manager told me that I'm not allowed to wear a coat at work. I told her I was cold and she didn't want to hear that. She asked me to remove the coat or go home.</u> <u>That was a set-up against me and HR decided to terminate me on 11-03-23</u>
<b>Signature and Verification</b>	I understand this charge will be filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address, phone, or email. I will cooperate fully with them in the processing of my charge in accordance with their procedures.  I understand by signing below that I am filing a charge of employment discrimination with the EEOC. I understand that the EEOC is required by law to give a copy of the charge, which includes my allegations and my name, to the organization named above. I also understand that the EEOC can only investigate charges of job discrimination based on race, color, religion, sex, national origin, age, disability, genetic information, or based on retaliation for filing a charge of job discrimination, participating in an investigation of a job discrimination complaint, or opposing job discrimination.  I declare under penalty of perjury that the above is true and correct.  Signature: <u>[Signature]</u> Date: <u>12-04-23</u>

**Division of  
Human Rights****Employment Discrimination Complaint Form****(Includes Licensing, Contract Work, Internships, Volunteer Position, Discrimination by a Union)****Instructions**

1) Please fill out the complaint form, answering all of the questions. If you are filling out the form on a computer, please print it immediately when you are finished. **You may not be able to save the completed form.** If possible, please type. If you are filling out the form by hand, please print. ***Please do not write in the margins or on the back of this form.***

**Please note: A delay could occur in the filing and the investigation of your complaint if the form is not filled out properly or if the information you provide is not legible.**

2) Notarization is no longer a requirement for this form. For those not wanting to use a notary, you can complete the declaration section after you fill out the form. The declaration option does not require notarization; you need only fill in the blanks with the date and your location (city, state), and sign the declaration. The oath section is still available, but if you use this option you will need to sign in front of a notary.

3) Attach copies of any documents that you think will help the Division investigate your case (pay stubs, letter of termination, performance evaluations, disciplinary notices, etc.).

4) Return the complaint form to the office closest to you. See below for the list of office locations. You may return the complaint by postal mail or personal delivery. You may also email your complaint to [complaints@dhr.ny.gov](mailto:complaints@dhr.ny.gov) or fax it to (718) 741-8322.

5) Keep a copy of your complaint, and copies of any documents that you attach, for your own records.

6) The completed complaint must be returned to the Division promptly. After the Division accepts your complaint, this form will be sent to the company or person(s) whom you are charging with discrimination.

**Time Limit for Filing**

Please note: You must file your complaint within **one year** of the most recent act of alleged discrimination. If you were terminated, you must file within one year of the date you were first informed you would be terminated. If you are alleging sexual harassment in the workplace that occurred after 8/12/2020, you may file within three years from the most recent incident.

***If you need further assistance or require an accommodation for a disability, please call one of our offices, make an appointment for a personal meeting or visit our website at [www.dhr.ny.gov/complaint](http://www.dhr.ny.gov/complaint). Interpreter services are also available at no cost upon request.***

**NYS Division of Human Rights Offices****Albany**

Agency Building 1, 2nd Floor  
Empire State Plaza  
Albany, New York 12220  
Telephone No. (518) 474-2705

**Binghamton**

44 Hawley Street, Room 603  
Binghamton, New York 13901  
Telephone No. (607) 721-8467

**Bronx Central Office**

One Fordham Plaza, 4th Floor  
Bronx, NY 10458  
Telephone No. (718) 741-8400

**Brooklyn**

55 Hanson Place, Room 304  
Brooklyn, New York 11217  
Telephone No. (718) 722-2385

**Buffalo**

Main Place Tower  
350 Main Street, 10th Floor, Suite 1000B  
Buffalo, New York 14202  
Telephone No. (716) 847-7632

**Long Island (Nassau)**

50 Clinton Street, Suite 301  
Hempstead, New York 11550  
Telephone No. (516) 539-6848

**Long Island (Suffolk)**

250 Veterans Memorial Highway,  
Suite 2B-49  
Hauppauge, New York 11788  
Telephone No. (631) 952-6434

**Manhattan**

Adam Clayton Powell Jr. State Off. Bldg.  
163 West 125th Street, 4th Floor  
New York, New York 10027  
Telephone No. (212) 961-8650

**Office of Sexual Harassment  
Issues/Queens**

55 Hanson Place, Room 900  
Brooklyn, New York 11217  
Telephone No. (718) 722-2060

**Rochester**

One Monroe Square  
259 Monroe Avenue, Suite 308  
Rochester, New York 14607  
Telephone No. (585) 238-8250

**Syracuse**

John J. Hughes State Office Building  
333 E. Washington Street, Room 543  
Syracuse, New York 13202  
Telephone No. (315) 428-4633

**White Plains**

7-11 South Broadway, Suite 314  
White Plains, New York 10601  
Telephone No. (914) 989-3120

**What is Covered by the Human Rights Law?**

The Division of Human Rights investigates complaints of employment discrimination based on:
<b>Age</b> (if you are at least 18 years of age; those under 18 are protected for all other characteristics listed below)
<b>Arrest Record</b> (that was resolved in your favor or adjourned in contemplation of dismissal or youthful offender record or sealed conviction record)
<b>Conviction Record</b> (only for private employers; against public employers, you must file directly in state court)
<b>Creed / Religion</b> (religious membership, belief, practice, or observance, including sabbath or holy day observance, or wearing of attire, clothing or facial hair in accordance with your religion; or discrimination because you do not have a religious belief)
<b>Disability</b> (a physical or mental condition; includes denial of reasonable accommodation)
<b>Victim of Domestic Violence</b> (you or your child was a victim of domestic violence; including reasonable accommodation in the form of leave time needed because of the domestic violence including medical, psychological, legal or other services, or for safety)
<b>Familial Status</b> (if you are pregnant, have a child, or are in the process of obtaining custody of a child, or have a child or children under age 18 in your household)
<b>Gender Identity or Expression</b> (actual or perceived gender-related identity, appearance, behavior, expression, or other gender-related characteristic regardless of the sex assigned to that person at birth, including, but not limited to, the status of being transgender; complaints involving the need for accommodation of gender dysphoria or other related medical condition can also be filed under disability)
<b>Marital Status</b> (single, married, separated, divorced, widowed)
<b>Military Status</b> (including military reserves or being a veteran)
<b>National Origin</b> (the country where you or your ancestors were born)
<b>Predisposing Genetic Characteristics</b> (information from a genetic test)
<b>Pregnancy-Related Condition</b> (a medical condition related to pregnancy or childbirth, including lactation, or denial of reasonable accommodation of such condition)
<b>Race/Color</b> (because you are Asian, Black, White, etc.; includes ethnicity; includes traits historically associated with race such as hair texture or hairstyle)
<b>Retaliation</b> (if you filed a discrimination case before, were a witness or helped someone else with a discrimination case, or opposed or reported discrimination due to category listed on this page)
<b>Sex</b> (because of your gender, includes sexual stereotyping, sexual harassment, pregnancy)
<b>Sexual Orientation</b> (heterosexual, homosexual, bisexual, asexual, whether actual or perceived)
<b>Use of Guide Dog, Hearing Dog, or Service Dog</b> (use of a professionally trained dog for a disability)
<b>Relationship or Association</b> (with a member or members of a protected category(ies) listed above)
The Division investigates complaints only if the discrimination is based on one or more of the above reasons. The Division cannot investigate unfair treatment that does not involve one of these reasons. If you do not see anything in this list that applies to your situation, please contact the Division of Human Rights to speak to a staff member.

## New York State Division of Human Rights

## Employment Complaint Form

Although workers, interns and volunteers of all ages are protected, you must be 18 years or older to file a complaint. A parent, guardian or other person having legal authority to act in the minor's interests must file on behalf of a person under the age of 18.

**1. Your contact information:**

First NameAstou		Middle Initial/Name	
Last NameDiagne			
Street Address/ PO Box10 west 119th street		Apt or Floor #:6	
CityNew York		StateNY	Zip Code10026
If you are filing on behalf of another, provide the name of that person:		Date of birth:	Relationship:

**2. Regulated Areas: Check the area where the discrimination occurred:**

(If you wish to file against multiple entities, for example employer and temp agency, please file a separate complaint against each.)

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> Employment (including paid internship)                | <input type="checkbox"/> by a Labor Organization        |
| <input type="checkbox"/> Internship (unpaid)  | <input type="checkbox"/> Apprentice Training            |
| <input type="checkbox"/> Contract Work (independent contractor, or work for a contractor) | <input type="checkbox"/> by a Temp or Employment Agency |
| <input type="checkbox"/> Volunteer Position   | <input type="checkbox"/> Licensing                      |

**3. You are filing a complaint against:**

Employer, Worksite, Agency or Union Name Convive brands, llc brands		
Street Address/ PO Box 50 west 23rd street floor 7		
CityNew York	StateNY	Zip Code10010
Telephone Number: 646-360-0052		
In what county or borough did the violation take place? Manhattan		
Individual people who discriminated against you:		
Name: Christophe Mars	Title: District manager	
Name: Christopher Figueroa	Title: General manager	
If you need more space, please list them on a separate piece of paper.		

**4. Date of alleged discrimination (must be within one year of filing):**

The most recent act of discrimination happened on: 09 12 2023  
month day year

**5. For employment and internships, how many employees does this company have?**

- ☐ 1-14 ☐ 15-19 ☐ 20 or more ☐ Don't know



**6. Are you currently working for this company?**

☒ Yes. Date of hire: 11 08 2021  
month day year

What is your position?  
Manager (shift lead)

☐ No. Last day of work: \_\_\_\_\_  
month day year

What was your position?

☐ I was never hired.  
Date of application: \_\_\_\_\_  
month day year

What position did you apply for?

**7. Basis of alleged discrimination:**

Check **ONLY** the boxes that you believe were the reasons for discrimination, and fill in specifics only for those reasons. Please look at page 2 of "Instructions" for an explanation of each type of discrimination.

☐ **Age:**  
Date of Birth: \_\_\_\_\_

☐ **Familial Status:**

☐ **Arrest Record**

☐ **Military Status:**

☐ Active Duty ☐ Reserves ☐ Veteran

☐ **Conviction Record**

☐ **Marital Status**

☐ Single ☐ Married ☐ Separated  
☐ Divorced ☐ Widowed

☐ **Creed/ Religion:**  
Please specify: \_\_\_\_\_

☐ **National Origin:**  
Please specify: \_\_\_\_\_

☐ **Disability:**  
Please specify: \_\_\_\_\_

☐ **Predisposing Genetic Characteristic:**

☐ **Domestic Violence Victim Status**

☐ **Pregnancy-Related Condition:**  
Please specify: \_\_\_\_\_

☐ **Gender Identity or Expression, Including the Status of Being Transgender**

☐ **Sexual Orientation:**  
Please specify: \_\_\_\_\_

☐ **Race/Color or Ethnicity:**  
Please specify: \_\_\_\_\_  
☐ Trait historically associated with race such as hair texture or hairstyle

☐ **Sex:**  
Please specify: \_\_\_\_\_  
Specify if the discrimination involved:  
☐ Pregnancy ☐ Sexual Harassment

☐ **Use of Guide Dog, Hearing Dog, or Service Dog**

If you believe you were treated differently after you filed or helped someone file a discrimination complaint, participated as a witness to a discrimination complaint, or opposed or reported discrimination due to any category above, check below:

I reached out to my workplace HR

☒ **Retaliation:** How did you oppose discrimination: \_\_\_\_\_

If you believe you were discriminated against because of your relationship or association with a member or members of a protected category listed above, indicate the relevant category(ies) above, and check below.

☐ **Relationship or association**



**8. Acts of alleged discrimination: What did the person/company you are complaining against do? Check all that apply**

<input type="checkbox"/> Refused to hire me	<input type="checkbox"/> Gave me a disciplinary notice or negative performance review	<input type="checkbox"/> Denied my request for an accommodation for my disability, or pregnancy-related condition	<input type="checkbox"/> Sexual harassment
<input type="checkbox"/> Fired me/laid me off	<input type="checkbox"/> Suspended me	<input type="checkbox"/> Denied me an accommodation for domestic violence	<input type="checkbox"/> Harassed or intimidated me on any basis indicated above
<input type="checkbox"/> Demoted me	<input type="checkbox"/> Did not call back after lay-off	<input type="checkbox"/> Denied me an accommodation for my religious practices	<input type="checkbox"/> Denied services or treated differently by a temp or employment agency
<input type="checkbox"/> Denied me promotion/ pay raise	<input type="checkbox"/> Paid me a lower salary than other co-workers doing the same job	<input type="checkbox"/> Denied me leave time or other benefits	<input type="checkbox"/> Denied a license by a licensing agency
<input type="checkbox"/> Denied me training	<input type="checkbox"/> Gave me different or worse job duties than other workers doing the same job	<input type="checkbox"/> Discriminatory advertisement or inquiry or job application	<input checked="" type="checkbox"/> Other: Discrimination and retaliation

**9. Description of alleged discrimination**

***Tell us more about each act of discrimination that you experienced. Please include dates, names of people involved, and explain why you think it was discriminatory. TYPE OR PRINT CLEARLY.***

When I returned from vacation on 09-11-23 my regular schedule was changed by my district manager Christophe mars and after asking him the reason he did told me that my availability is limited and he will not gonna have hours for me at my main location. The same availability I had with the company for months. I wasn't aware of the changing and for my knowledge it's not the right thing for them to do.

Back in July 11th 2023 I had an issue with Christophe mars and Christopher Figueroa. Because they put me on the schedule July 10th for a closing shift and July 11th for a closing shift and I asked my general manager Christopher Figueroa since I gave you a favor to close the store back to back since we had another manager being on vacation at that time if they can change my schedule for Wednesday July 12th for a mid shift instead of opening shift which was 5:30-2pm because the store close at 8pm by the time we get out it's past 9:30 and the time I get home it's past 10:30pm and for me to come the next day to open the store at 5:30am that's the reason I gave to my GM Christopher Figueroa and he did tell me he was going to talk to the district manager Christophe mars and from nowhere they took me out of the schedule with no notice because I just asked them if I can do a mid shift on July 12th so they took me out the schedule for Wednesday and for the Thursday my schedule was 5:30-2 ended up being 5:30-12pm. They edited the schedule after posting it the day before I was supposed to work.

When I tried to have a conversation with both of them what was the reason they took me out the schedule Christophe mars started criticizing my work availability the same one I had with the company for months and when I started giving him a reason because I worked 5 days in the week and the time I can work since I have 2 kids and sometimes I have to pick them up from school Christophe mars did tell me that day is not because you have kids that you will have a fix schedule and also he will not going to promote someone that's not fully available to become a manager and this really hurt my feelings coming from a district manager is a wrong message.

The week of September 18th to 24th he gave me 1 day shift to work. Usually I worked 5 days he gave me that it's not because my store is slow he just giving me this because he is discriminated me because I'm a mother. While I worked 1 day shift my others coworkers are working they regular shift and even extra hours.

The week of September 25th to October 1st they gave me 2 days shift while my others coworkers are working they regular shift and my regular has been given to others.

The week of October 02nd to October 8th they gave me 1 day shift to work.

This is affecting me financially and morally I'm a mother of two kids I only have 1 income and it's very difficult for me at this moment. I'm being treated unfairly.

On September 28th my GM Christopher Figueroa sent me an email to asked me if I can work at another location because they don't have hours available for me at my main location I did answer yes but after they posted the schedule I see again some of my hours has been given to others. And they didn't give me hours to work.

I sent an email to both of them on September 28th if any reason why my regular hours has been given to other they never answer to my email.

That's very rude and disrespectful the way they are acting right now because they have higher position that me doesn't give them the right to treat me like that.

I'm staying home while all my coworkers are working that's really unfair I didn't ask for it.

*If you need more space to write, please continue writing on a separate sheet of paper and attach it to the complaint form. DO NOT WRITE IN THE MARGINS OR ON THE BACK OF THIS FORM.*

**Signature (Declaration or Oath)**

Based on the information contained in this form, I charge the herein named respondent(s) with an unlawful discriminatory practice, in violation of the New York State Human Rights Law.

By filing this complaint, I understand that I am also filing my employment complaint with the United States Equal Employment Opportunity Commission under the Americans With Disabilities Act (covers disability related to employment), Title VII of the Civil Rights Act of 1964, as amended (covers race, color, religion, national origin, sex relating to employment), and/or the Age Discrimination in Employment Act, as amended (covers ages 40 years of age or older in employment). This complaint will protect my rights under federal law.

I hereby authorize the New York State Division of Human Rights to accept this complaint on behalf of the U.S. Equal Employment Opportunity Commission, subject to the statutory limitations contained in the aforementioned law.

I have not filed any other civil action, nor do I have an action pending before any administrative agency, under any state or local law, based upon this same unlawful discriminatory practice. (If you have another action pending and still wish to file, please contact our office to discuss.)

PLEASE INITIAL AD

Human Rights Law § 297.1 requires that a complaint filed with the Division of Human Rights must be "under oath or by declaration." **You must complete either the "declaration" or "oath" sections below.** The declaration requires only your signature and does not need to be notarized. The oath requires that you sign it before a notary.

**DECLARATION**

I affirm this 03 day of October (month), 2023 (year) at New York (city), NY (state), under penalties of perjury, that I am the complainant herein; that I have read (or had read to me) the foregoing complaint and know the content thereof; that the same is true of my own knowledge except as to the matters therein stated on information and belief; and that as to those matters, I believe the same to be true.

Astou Diagne

\_\_\_\_\_  
[Complainant name]

**OATH**

STATE OF NEW YORK       )  
COUNTY OF               )   SS:

Astou Diagne, being duly sworn, deposes and says: that I am the complainant herein; that I have read (or had read to me) the foregoing complaint and knows the content thereof; that the same is true of my own knowledge except as to the matters therein stated on information and belief; and that as to those matters, I believes the same to be true.

IDA  
\_\_\_\_\_  
Complainant signature

Subscribed and sworn to  
before me this       day  
of                       , 20

\_\_\_\_\_  
Signature of Notary Public

**Please note: Once this form is completed and returned to the New York State Division of Human Rights, it becomes a legal document and an official complaint with the Division.**

**Additional Information, Page 1:** *This page is for the Division's records and will not be sent to the company or person(s) whom you are filing against.*

**1. Contact information**

My primary telephone number: +16316839040

My secondary telephone number: 6318676261

My date of birth: 03/13/1988

**(Required) My email address:**

*The Division uses email, whenever possible, to communicate with the parties to complaints. This avoids delays and lost mail, and increases the efficiency of Division case processing. Therefore, you are required to provide an email address, if you have one, and to keep us advised of any change of your email address. The Division will not use your email address for any non-case related matters.*

Contact person (Someone who does not live with you but will know how to contact you if we cannot reach you)

Contact person's name: Léonard Doramodou

Contact person's telephone number: 6318676261

Contact person's address: 152 west 118th street apt 2D NY,NY 10026

Contact person's email address: Kesso1227@yahoo.com

Contact person's relationship to me: Fiancé

**2. Special needs:** I am in need of:

- ☐ Interpretation (if so what language?): \_\_\_\_\_
- ☐ Accommodations for a disability: \_\_\_\_\_
- ☐ Privacy. Keep my contact information confidential as I am a victim of domestic violence
- ☐ Other: \_\_\_\_\_

**3. Settlement / Conciliation:** To settle this complaint, I would accept:

*(Explain what you want to happen as a result of this complaint. Do you want a letter of apology, job offer, return to the job, an end to the harassment, compensation, etc.?)*

The retaliation and discrimination needs to stop I want the company to give me a retro pay for the wages I lost

**4. Witnesses (information about witnesses may be shared with the parties as necessary for the investigation)** The following people saw or heard the discrimination and can act as witnesses:

Name: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

What did this person witness?

Title: \_\_\_\_\_

Relationship to me: \_\_\_\_\_

Name: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

What did this person witness?

Title: \_\_\_\_\_

Relationship to me: \_\_\_\_\_

**Additional Information, Page Two**

**5. Did you report or complain about the discrimination to someone else?** ☒ Yes ☐ No

**If yes, how exactly did you complain about the discrimination? (To whom did you complain?)**

I sent an email to my work place HR

**Date you reported or complained about discrimination:**

09

month

20

day

2023

year

**What happened after you complained?**

I received a phone call from An HR representative on September 25th .they are going to investigate and give me a call back

**If you did not report the discrimination, please explain why:**

**6. Were other people treated the same as you? How?**

*(For example, people who were harassed by the same manager, disciplined or terminated for the same reasons, did not receive an accommodation for the same reasons, etc.).*

*If you are complaining about discrimination relating to race, national origin, age, religion, etc. please describe their races, national origins, religions, etc.*

Not sure

**7. Were other people treated better than you? How?**

*(For example, people who were not fired for doing the same thing you were fired for, people who were doing the same job but making more money, etc.).*

*If you are complaining about discrimination relating to race, national origin, age, religion, etc. please describe their races, national origins, religions, etc.*

Yes the others shift leader are being treated better than me because they are making more money than me they are working their 5 days while me I'm staying home. For them to gave 1 or 2 days shift to work while being a mother of two kids 7years old and 4years old

